

EXHIBIT 2

Page 1

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Lead Case No. 08-99000-smb

4 Case No. 08-01789-smb

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6 In the Matter of:

7 SECURITIES INVESTOR PROTECTION CORPORATION,

8 Plaintiff,

9 v.

10 BERNARD L. MADOFF INVESTMENT SECURITIES, LLC, et al.,

11 Defendants.

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13 - - - - - x

14 United States Bankruptcy Court

15 One Bowling Green

16 New York, NY 10004

17
18 July 25, 2018

19 10:10 AM

20
21 B E F O R E :

22 HON STUART M. BERNSTEIN

23 U.S. BANKRUPTCY JUDGE

24
25 ECRO: UNKNOWN

<p style="text-align: right;">Page 2</p> <p>1 HEARING re Conference re Motion for an Order Establishing 2 Omnibus Proceeding for the Purpose of Determining the 3 Existence, Duration and Scope of the Ponzi Scheme at BLMIS 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 Transcribed by: Sonya Ledanski Hyde</p>	<p style="text-align: right;">Page 4</p> <p>1 PRYOR CASHMAN LLP 2 Attorneys for the Defendants 3 7 Times Square 4 New York, NY 10036 5 6 BY: RICHARD LEVY, JR. 7 8 MCDERMOTT WILL & EMERY LLP 9 Attorneys for Sage Associates, Sage Realty, Malcolm 10 Sage, Martin Sage, Ann Sage 11 340 Madison Avenue 12 New York, NY 10173 13 14 BY: ANDREW B. KRATENSTEIN 15 16 HUNTON ANDREWS KURTH LLP 17 Attorneys for Defendants 18 200 Park Avenue 19 New York, NY 10166 20 21 BY: RICHARD A. RICH 22 23 24 25</p>
<p style="text-align: right;">Page 3</p> <p>1 A P P E A R A N C E S : 2 3 BAKER HOSTETLER 4 Attorneys for Trustee BLMIS 5 45 Rockefeller Plaza 6 New York, NY 10111 7 8 BY: NICHOLAS J. CREMONA 9 AMANDA E. FEIN 10 STACEY A. BELL 11 MELISSA L. KOSACK 12 MAXIMILLIAN S. SHIFRIN 13 14 DENTONS US LLP 15 Attorneys for Defendants 16 1221 Avenue of the Americas 17 New York, NY 10020 18 19 BY: CAROLE NEVILLE 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 5</p> <p>1 FISHERBROYLES LLP 2 Attorneys for Defendants 3 445 Park Avenue 4 New York, NY 10022 5 6 BY: RICHARD A. KIRBY 7 8 STEVENS & LEE 9 Attorneys for Legacy Capital 10 485 Madison Avenue, 20th Floor 11 New York, NY 10022 12 13 BY: NICHOLAS F. KAJON 14 15 CHAITMAN LLP 16 Attorneys for Defendants 17 465 Park Avenue 18 New York, NY 10022 19 20 BY: HELEN DAVIS CHAITMAN 21 22 23 24 25</p>

<p style="text-align: right;">Page 6</p> <p>1 ALSO PRESENT TELEPHONICALLY: 2 3 KEVIN H. BELL 4 PATRICK MOHAN 5 JOSHUA TUCKER 6 DAVID J. SHEEHAN 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 8</p> <p>1 Based on the progress that the parties had made 2 during the course of their negotiations, as of the last 3 hearing, the Trustee expressed optimism that we would be 4 able to enter into a revised consensual order. And the 5 objecting parties agreed with the Trustees -- the Trustee 6 and acknowledge the progress that the parties had made to 7 date. 8 Subsequent to the hearing, Your Honor, the Trustee 9 sent a revised proposed order to the Defendants. That is 10 the order that is now before the Court. And the revised 11 order, as I stated before, we refiled a pretrial order 12 because we significantly limited -- and it indicated the 13 substantial overhaul and changes between the initial order 14 and the revised order. 15 The Trustee's counsel had a meeting with 16 Defendants with the objecting Defendants, where it was our 17 hope that we would continue in the same vain as the initial 18 rounds of discussions, making progress towards a consensual 19 order. 20 At the meeting, as reflected in our reply papers, 21 the objecting Defendants informed the Trustee that they 22 could not agree to the order because as a threshold matter, 23 discovery was closed in a majority of their cases and the 24 fact, of course -- discovery renders this proceeding 25 problematic.</p>
<p style="text-align: right;">Page 7</p> <p>1 PROCEEDINGS 2 THE COURT: Go ahead. 3 MS. BELL: Good morning, Your Honor. Stacey Bell, 4 counsel for the Trustees, BakerHostetler. Your Honor, we're 5 here on a status conference on the Trustee's motion for an 6 order establishing an omnibus proceeding on the existence, 7 duration, and scope of the Ponzi scheme at BLMIS. Since the 8 last time we were here, we've refiled that motion, and so 9 now we're here on an omnibus Ponzi pretrial proceeding. 10 If this Court will recall, the Trustee filed a 11 motion in February seeking to consolidate the remaining good 12 faith actions on the issue -- on the Ponzi issue. And in 13 response to the Trustee's motion, the Trustee received a 14 number of objections. 106 cases filed objections. There 15 were eight law firms. We've since -- that number has since 16 dropped to seven law firms with 105 cases at issue. 17 So, a month ago, the parties appeared before Your 18 Honor to update the Court on the status of the negotiations. 19 And at that time, the Trustee reported that since receiving 20 the Defendant's objections, the parties had been engaged in 21 negotiations seeking to streamline the issues for the Court. 22 More specifically, the parties were engaged in discussions 23 about a consolidated proceeding that would address discovery 24 only, tabling issues of trial and dispositive motions for a 25 later date.</p>	<p style="text-align: right;">Page 9</p> <p>1 In the Defendant's view, the only cases that could 2 proceed on this consolidated basis would be cases where fact 3 discovery is open under the CMO. The Trustee obviously -- 4 THE COURT: How many of those? 5 MS. BELL: There are about seven or so cases, Your 6 Honor, and I'll go through those categories in just a 7 moment. But there are seven cases in the Trustee's view 8 that are open with -- under the existing CMOs. The Trustee 9 disagrees with Defendant's position, and we decided to file 10 a motion or a reply just in accordance with the Court's 11 directive at the last hearing, that that reply be put in by 12 July 18th. 13 The day before the filing, the Trustees received - 14 - the Trustee received comments to our proposed order, and 15 those comments highlighted and confirmed how far apart the 16 parties were. In the Trustee's view, we've accommodated and 17 we've sought to accommodate the Defendant's position vis-à- 18 vis our proposed revised order on what a restructured 19 omnibus Ponzi proceeding could look like. And we think that 20 the revised order is judicially efficient and it streamlines 21 the discovery process going forward on the Ponzi issue. 22 And so, Your Honor, I want to talk just a bit 23 about how the Trustee's grouped the cases because, in our 24 view, there are three groups of cases. The first group -- 25 and that's the question Your Honor just had -- the cases</p>

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<p>1 where fact discovery is open under existing CMOs. The 2 second group, in the Trustee's view, would be the cases that 3 participated in Madoff's deposition. And then the third 4 group of cases are cases where discovery is closed and they 5 did not participate in Madoff's deposition. And I'll take 6 those (indiscernible). 7 Cases with open fact discovery -- I don't think 8 that there would -- I don't expect there to be disagreement, 9 and I think we've gotten that far with the negotiations 10 where Defendants would agree that those would be part of a 11 consolidated proceeding. There are seven of those cases. 12 With respect to the cases that participated in 13 Madoff's deposition, of the objecting parties there are 92 14 of those cases that participated in Madoff's deposition. 15 And given the deposition, in the Trustee's view, it's 16 reasonable at this juncture to seek to take additional 17 discovery on the Ponzi issue to refute the issues injected 18 into the case by Mr. Madoff's deposition. 19 And, Your Honor, just -- if you would indulge me a 20 bit, just to go through how Madoff's deposition -- 21 THE COURT: What discovery does the Trustee need? 22 The Trustee's been preparing these cases for ten years or 23 eight years. 24 MS. BELL: Yes, Your Honor, and that is absolutely 25 correct. And I think as we addressed at the last hearing,</p>	<p>1 MS. BELL: Yes. He allocuted that the Ponzi began 2 in the 1990s but Mr. Madoff's testimony has changed over 3 time. Your Honor, and to be clear, the Trustee -- 4 THE COURT: But he's never deviated from that, I 5 don't think. 6 MS. BELL: Well, I think he's deviated in a number 7 of significant ways. He said that the Ponzi scheme began in 8 '92 and then in his deposition, he walked away from that and 9 said, well, the convertible arb transactions were always 10 real. And so now it's now longer a time limitation; it's 11 become a strategy-based limitation. 12 The convertible arb transactions purportedly 13 occurred through 1998. And so are we at '98 or are we at 14 '92? There is also -- Mr. Madoff in his allocution said 15 that the split strike conversion strategy did not happen; 16 that he promised customers that he would have a basket of 17 securities. He did not. And as part of that promise he 18 also promised that he would invest in treasury, and he 19 didn't do it. And he said that -- 20 THE COURT: It's been awhile since I looked at his 21 deposition, but as I recall, he was talking about earlier 22 days in his deposition. And I thought he always said that 23 once he started the split strike conversion strategy -- or 24 he never even addressed what happened after 1992. 25 MS. BELL: I think he said in later depositions</p>
Page 11	Page 13
<p>1 Mr. Madoff injected certain issues into the case that the 2 Defendants themselves have agreed that these are completely 3 new issues, and we have transcripts where we've talked about 4 that. And so, the Trustee would like the opportunity to put 5 in additional fact witnesses who can testify -- 6 THE COURT: But who? What? Who do you -- 7 MS. BELL: So, there are certain witnesses that 8 Mr. Madoff himself mentioned at the deposition, so we can 9 start with those individuals like Mr. Dan Bonventre, 10 individuals like Ms. Annette Bongiorno, Ms. Condoleezza 11 Picks. There are a number of individuals who either worked 12 on the convertible arb transactions that are clearly at 13 issue, just based -- coming out of Mr. Madoff's deposition. 14 The Treasury transactions that the Defendants, I think, have 15 now wrapped a lot of their defenses around. 16 THE COURT: But let me ask you this. It's always 17 been the Trustee's theory that the Ponzi scheme began in the 18 '70s, I think. 19 MS. BELL: Yes, Your Honor. 20 THE COURT: Okay. So I assume you would have been 21 able to prove that when -- or develop that case over the 22 last eight years because Madoff allocuted that it began in 23 1992 or something like that, right? 24 MS. BELL: Yes. 25 THE COURT: So, why do you need more discovery?</p>	<p>1 that the convertible arb strategy was real, and those 2 transactions went through '98. I think -- 3 THE COURT: So, who would you want to depose about 4 that? 5 MS. BELL: With respect to convertible arb, I 6 think there are a number of former BLMIS employees. Ms. Jo 7 Ann Sala, who worked with Mr. David Kugel on the convertible 8 arb transactions. So, Mr. Kugel as well, who also pled. 9 And these are individuals who testified at the criminal 10 trial. 11 What the trustee is seeking to do is to have a 12 limited number of former BLMIS employees who can testify to 13 the issues that admittedly the Defendants have said that 14 these are new issues and these things completely change the 15 case. 16 THE COURT: Do you know what they're going to say? 17 MS. BELL: I'm sorry? 18 THE COURT: Do you know what they're going to say, 19 these witnesses? 20 MS. BELL: Your Honor, we have a good sense of 21 what they're going to say just based on -- 22 THE COURT: So, why don't you just call them as 23 witnesses at the trial? 24 MS. BELL: Your Honor, we are preparing to do 25 that. I think, though, that the Trustee -- the record is</p>

<p style="text-align: right;">Page 18</p> <p>1 he was deposed for three days. And day two he was deposed 2 for two days. 3 THE COURT: Okay. 4 MS. BELL: But, Your Honor, the arguments have 5 advanced beyond the convertible arb and beyond the start 6 date of the Ponzi scheme. So -- 7 THE COURT: But that's what I'm -- that's what I'm 8 trying to find out, because all your order says is we've got 9 four months of fact discovery and it's not supposed to be a 10 complete do-over. 11 MS. BELL: Right, and I agree with that, Your 12 Honor. So, what the Trustee was attempting to do in this 13 order was, in our meet and confer, the Defendants raised the 14 issue of the 27 subpoenas that Ms. Chaitman served. If you 15 recall in the original order, the Trustee had a limited 16 number of discovery. We tried to do it based on numbers so 17 the Court would see from the Trustee's perspective we're not 18 trying to have this go for many, many months and to be an 19 open-ended process. 20 In this order we did not do that simply to 21 accommodate the request to have those 27 trader subpoenas. 22 And I think that's worth talking about as well, because not 23 only do we have Madoff's deposition that the Defendants have 24 requested but there are 27 trader subpoenas of former BLMIS 25 employees who worked on the House 5 side. I think there was</p>	<p style="text-align: right;">Page 20</p> <p>1 contemplated in connection with Mr. Madoff's deposition. 2 The other fact I would say is, again, if discovery 3 happens in some of the cases and not in the other cases, 4 this becomes an incomplete record for some cases and on the 5 same Ponzi scheme. So I think there is an issue there that 6 the Court would need to address. 7 And if we go forward, and the Trustee is prepared 8 to go forward on these cases one at a time -- but we've 9 tried that before in the Cohen case, if the Court will 10 recall, and there was a motion to intervene. And so, again, 11 we're not trying to get -- 12 THE COURT: That was unsuccessful and affirmed on 13 appeal so -- 14 MS. BELL: Correct, correct. We're not trying to 15 get an advantage here. It's the Trustee's -- we're not 16 trying to do a one-upmanship here. I think the idea is to 17 proceed in a way that is rational, that is judicially 18 efficient. It's an opportunity for the Court and for the 19 parties to streamline this process, because otherwise, we 20 continue with these discovery disputes for certain types of 21 records. There -- we've integrated and built into the 22 process where we would have Judge Moss overseeing some of -- 23 to the extent that discovery disputes come up, to take that 24 off the Court's calendar, and because Judge Moss is familiar 25 with these issues that have come up before.</p>
<p style="text-align: right;">Page 19</p> <p>1 one who was on the House 17 side, but we want the 2 opportunity to talk to the House 17 employees. There is a 3 criminal trial. In 2014, five employees were found guilty. 4 There are a number of plea allocutions where we would like 5 the opportunity to have -- and we recognize that that's 6 admissible evidence, but to explore those and to unpack 7 those to address the issues that are at play in this case. 8 And so Defendants have not only stated the start 9 date issue and the convertible arb issue, but there's an 10 issue about how subscription -- how redemption requests were 11 paid. There was no Ponzi scheme at all. The issues have 12 ballooned and mushroomed from beyond where we started. And 13 so if the Trustee was preparing a case -- and we certainly 14 believe, again, that we have enough admissible evidence to 15 prove our case, but as a matter of fairness and equitable 16 principles, this case should go forward on a full and 17 balanced record. 18 THE COURT: But a lot of the Defendants say we 19 don't -- you know, discovery's cut off. 20 MS. BELL: But -- 21 THE COURT: You should be able to prove your case. 22 If they don't want discovery, why do you want to keep 23 discovery open? 24 MS. BELL: Because, Your Honor, we kept it open on 25 the Ponzi issue, I think, from -- that was always</p>	<p style="text-align: right;">Page 21</p> <p>1 THE COURT: Well, the Defendants would have to 2 consent to that but -- 3 MS. BELL: Yes, Your Honor, I agree with that. 4 THE COURT: All right. All right. Let me hear 5 from the Defendants. 6 MS. CHAITMAN: Good morning, Your Honor. Helen 7 Davis Chaitman on behalf of a number of Defendants. Your 8 Honor, when I answered the complaints on behalf of all of my 9 clients, I asserted that we did not believe that there was a 10 Ponzi scheme and that we believed that Madoff purchased the 11 securities. 12 So these issues have been in this case from day 13 one. And the reason that I have embarked on this now two- 14 year effort to obtain the trading records is because I 15 believe I can prove -- I've already gotten some records 16 which I've been able to prove that the securities were 17 actually purchased for some of my customers. 18 Now, there's -- the Court has been so strict in 19 enforcing the case management orders and the deadlines in 20 the case management orders, and most of that has worked 21 against the Defendants. Because we've come in and asked for 22 additional time and Your Honor has been very strict about 23 it, which, of course, is -- I'm not challenging your right 24 to do that. Of course you have the right to do that. But 25 that should be applied to the Trustee as well.</p>

<p style="text-align: right;">Page 38</p> <p>1 - how do you try it as a consolidated proceeding where 2 discovery has already been taken, I guess, in some cases? 3 MS. BELL: They have not on the Ponzi issue, Your 4 Honor, for BLMIS employees. 5 THE COURT: Well, whatever the issue was. Some of 6 them are trial ready -- 7 MS. BELL: Well, just as Defendants. We've not 8 taken discovery on any of these issues with the exception of 9 Madoff's deposition in PW, which was different, and that was 10 on a consolidated proceeding. Essentially, what we're 11 proposing here is the very thing. 12 And, Your Honor, I neglected to mention I accept 13 your proposed change of having the deposition that 14 Defendants deemed to have participated in the deposition, 15 and we'll submit a proposed order that includes that 16 provision. Because I think that gets to the crux of what it 17 is that we're trying to do here, proceeding on -- and in our 18 review, these cases are not closed on the Ponzi issue. 19 And so we're not seeking to reopen; we're seeking 20 to continue what was started on the Madoff deposition and by 21 the Madoff deposition. So, we could say that these 22 depositions and the documents that are at issue are part of 23 the very fraud proceeding that this Court has talked about 24 in arguments, and we've raised in the Roman -- Your Honor 25 raised in the Roman decision.</p>	<p style="text-align: right;">Page 40</p> <p>1 THE COURT: 2013. So, certainly the issue was up 2 there then. 3 MS. NEVILLE: So, I'm hearing now that of 153 -- 4 because it's not 106 cases or 105; it's 153 -- there are 5 seven cases where discovery is open and they want to have a 6 consolidated order that cuts off discovery from everybody 7 else? They were obliged to make a motion to show why they 8 were entitled to discovery. 9 What that order from, I think it was September 10 2017, says is that discovery is closed except for the right 11 for the right for the Picower parties, of all people, the 12 Defendants, and the Trustee and SIPC to take discovery on 13 the Madoff. And the Court reserved the issues from the June 14 29th transcript, which I have with me and I read carefully 15 yesterday. There were two issues that were reserved, and 16 they both were the issues Ms. Chaitman raised. There was 17 the production of trading records and the deposition of 18 traders. 19 So, the discovery obligation is from the Trustee 20 to us. Why they now want to open up 12 depositions of 21 Madoff employees to prove the case -- because I think they 22 realize they haven't proved it after all of these years and 23 after all of this money. 24 Rule 16 sets out a standard and I don't think 25 they've met it. They've been not diligent in pursuing their</p>
<p style="text-align: right;">Page 39</p> <p>1 THE COURT: Let me hear from some of the other 2 parties. 3 MS. CHAITMAN: I just want to say one thing, 4 Judge. If I came in and I said, "You know, Judge, 5 discovery's over in my cases but I now think that I really 6 should be able to take certain discovery..." I wouldn't get 7 two feet in this court. And that's what the Trustee's 8 trying to do. 9 Again, if you look at every one of my answers, 10 you'll see I disputed that there was a Ponzi scheme. This 11 has been in the case since I filed the answers. Thank you. 12 THE COURT: Ms. Neville? 13 MS. NEVILLE: Good morning. Carole Neville from 14 Dentons. Your Honor, I have 14 clients on this -- in this 15 matter now, and the case management order, and all but one 16 of them said that discovery closed. And I'm finding it kind 17 of staggering that Ms. Davis now says that after ten years 18 and a billion dollars, the Trustee has not taken discovery 19 on the Ponzi issue. 20 We have expert reports in all of our cases. What 21 was happening then? What were they doing? Right now, what 22 I hear, if I'm -- 23 THE COURT: What was the date of the Dubinsky 24 Report? Because that was -- 2013? 25 MR. KRATENSTEIN: It was 2013.</p>	<p style="text-align: right;">Page 41</p> <p>1 discovery. It's been a really long time. And it is 2 prejudicial to us. Because what they intend to do is reopen 3 all the things that we have now -- I've filed voluminous 4 mediation statements, I've got my case all lined up, and now 5 they want to reopen discovery. Or if you opt out, they 6 don't have to give us what they've been committing to give 7 us for five years. 8 So, I just -- I really -- I'm kind of outraged at 9 Ms. Davis' position here, that she's reserved -- 10 THE COURT: It's Ms. Bell. I knew who she meant. 11 MS. BELL: I did too, Your Honor. 12 MS. NEVILLE: I'm sorry. I called you Tracy the 13 other day, too. 14 MS. BELL: You did. I should be used to it. 15 MS. NEVILLE: I have a thing about your name. I 16 just think that at this point, they haven't made the case 17 for opening discovery -- 18 THE COURT: So, you say you have 13 cases? 13 19 cases where discovery is closed? 20 MS. NEVILLE: Right. 21 THE COURT: Are you ready to try those cases? 22 MS. NEVILLE: We're in mediation in a good number 23 of them. 24 THE COURT: I assume they all raise the same 25 issue, right?</p>

<p style="text-align: right;">Page 50</p> <p>1 they did not have the opportunity --</p> <p>2 THE COURT: Okay, so let me just stop you. So,</p> <p>3 there are people, there are entities or Defendants who did</p> <p>4 not have the right to participate in the Madoff deposition,</p> <p>5 right?</p> <p>6 MS. BELL: Well, Your Honor, from the group of</p> <p>7 objecting Defendants, there are about four or five cases</p> <p>8 that would fall into that category and they're represented</p> <p>9 by Ms. Chaitman and Ms. Neville. So I think that's a</p> <p>10 hypothetical concern that the Defendants have raised. I</p> <p>11 don't think it's a real issue before the Court.</p> <p>12 But with respect to Mr. Kajon's point on Legacy,</p> <p>13 and I want to address that because that's the sixth case</p> <p>14 where discovery is closed in the Trustee's view -- he did</p> <p>15 not get to participate in Madoff's deposition. We offered</p> <p>16 him the opportunity to participate and he declined.</p> <p>17 More than that, Your Honor, and I have from a</p> <p>18 transcript of June 2017 where Mr. Kajon before this Court</p> <p>19 says, "Some new evidence has come to light. Some new</p> <p>20 evidence has come to light just this week that raises some</p> <p>21 questions in our mind." And that new evidence, he cited to</p> <p>22 Mr. Madoff's deposition.</p> <p>23 And so it is disingenuous then to say that if Mr.</p> <p>24 Madoff's deposition goes forward and you choose not to</p> <p>25 participate, you can use the information that comes out of</p>	<p style="text-align: right;">Page 52</p> <p>1 know, really why it's necessary but --</p> <p>2 MS. BELL: I think that's right, Your Honor.</p> <p>3 We've had Mr. Dubinsky -- Ms. Galura's deposition taken in</p> <p>4 at least one of these cases and we've certainly had Mr.</p> <p>5 Greenblatt's deposition as well, I think. And I can't</p> <p>6 recall if any of these counsel participated. But to the</p> <p>7 extent that the Court would like the Trustee to make a Rule</p> <p>8 16 motion, we're prepared to do that. This motion was made</p> <p>9 pursuant to, again, the dealings and the understanding when</p> <p>10 we review the transcripts in connection with Mr. Madoff's</p> <p>11 deposition. And so the Trustee is prepared to make a Rule</p> <p>12 16 motion.</p> <p>13 We've had counsel who refused to agree to extend</p> <p>14 discovery that closed in July with the argument that the</p> <p>15 omnibus proceeding would deal with many of these issues.</p> <p>16 And so --</p> <p>17 THE COURT: Again, I'm perplexed that the Trustee</p> <p>18 wants to take the discovery on something the Trustee should</p> <p>19 know and the Defendants are fighting it. As I said, this</p> <p>20 seems to be a reversal. Is there any other Defendant that</p> <p>21 wants to be heard?</p> <p>22 MR. RICH: Good morning, Your Honor. Robert Rich,</p> <p>23 Hunton Andrews Kurth, on behalf of Edward (indiscernible)</p> <p>24 and certain other individual Defendants. I just want to</p> <p>25 address quickly and hopefully put to bed the issue of</p>
<p style="text-align: right;">Page 51</p> <p>1 that deposition to then challenge the Trustee's expert and</p> <p>2 the Trustee --</p> <p>3 THE COURT: We can argue about whether what Madoff</p> <p>4 says is hearsay in a case where somebody hasn't</p> <p>5 participated.</p> <p>6 MS. BELL: And I agree with that, Your Honor, but</p> <p>7 I think the point is the issue that Mr. Kajon raised is the</p> <p>8 issue of treasuries. That's an omnibus issue. So, again,</p> <p>9 in the interest of efficiency, it just doesn't seem to make</p> <p>10 sense to proceed with these on a piecemeal basis.</p> <p>11 THE COURT: Well, maybe -- maybe the underlying</p> <p>12 assumption that this can be tried as a consolidated issue is</p> <p>13 not right.</p> <p>14 MS. BELL: And so we've taken that off the table,</p> <p>15 Your Honor. And so now we're just dealing with discovery.</p> <p>16 THE COURT: No, but if it can't be tried as a</p> <p>17 consolidated issue, I don't have to necessarily consolidate</p> <p>18 discovery. I mean, yes, Dubinsky will be deposed once,</p> <p>19 Greenblatt -- Greenblatt and Galura to some extent have</p> <p>20 things to say in individual cases.</p> <p>21 MS. BELL: That's right, Your Honor.</p> <p>22 THE COURT: And maybe it's a two-day deposition or</p> <p>23 two-part deposition. One is the general what she did or</p> <p>24 what he did, and then if people want to take the depositions</p> <p>25 in individual cases, they can do it. I don't know, you</p>	<p style="text-align: right;">Page 53</p> <p>1 whether, you know -- that it's just our argument that this</p> <p>2 has been on the table. It's actually the Trustee's</p> <p>3 argument. They've used it over and over.</p> <p>4 THE COURT: What argument? Which argument?</p> <p>5 MR. RICH: The argument that this Ponzi -- the</p> <p>6 things that they want discovery on, this Ponzi scheme is a</p> <p>7 new issue that they should have discovery on. I actually</p> <p>8 tried. I asked for discovery on this exact issue a year ago</p> <p>9 when I started seeing that, yes, there were securities</p> <p>10 traded in our account. And I wanted more information. And</p> <p>11 I wanted more information --</p> <p>12 THE COURT: Okay, but that was what led to Mr.</p> <p>13 Madoff's deposition.</p> <p>14 MR. RICH: No, I'm sorry, Your Honor. This is</p> <p>15 after the deposition. This is just last year. After the</p> <p>16 deposition was taken, I said, there's a lot of good</p> <p>17 information here. I see there's securities -- I now wanted</p> <p>18 a little more. And I want to use that same paragraph that</p> <p>19 they want to use, that I should be able to move for more</p> <p>20 discovery. I want some more trading records. I want some</p> <p>21 treasury transactions. This is what Ms. Bell said they're</p> <p>22 looking for.</p> <p>23 This is what they said. They said, well, the</p> <p>24 deposition -- this is in their brief -- they said, the</p> <p>25 deposition order provision permitting follow-up based on</p>

<p style="text-align: right;">Page 54</p> <p>1 Madoff's deposition should be construed only as permitting 2 discovery that could not have been pursued without his 3 discovery. I said, surely the Defendants did not need 4 Madoff's deposition to justify a request for documents 5 regarding securities trading. And the court denied my 6 request. 7 Over and over they said, in the case management 8 order, fact discovery is done; it doesn't matter what Madoff 9 said in his deposition, this issue has been in the record. 10 And on that basis, the Court denied my request. They're 11 relying on the exact same language and asking for fact 12 discovery and the exact same things. My Defendants -- I 13 have two Defendants that have exposure of \$70,000. They 14 can't go through 12 more depositions because they don't want 15 to reopen. 16 THE COURT: Well, all right. You have no open 17 discovery cases? Your cases are closed? 18 MR. RICH: My case is closed. We have one expert 19 discovery that we noticed but the deadline -- the other 20 one's closed. 21 THE COURT: Who is that? 22 MR. RICH: That's for Mr. Greenblatt. 23 THE COURT: Okay. But you wouldn't participate in 24 the Dubinsky deposition. You never noticed it before 25 discovery was closed, right?</p>	<p style="text-align: right;">Page 56</p> <p>1 access to the documents that we'll use in any deposition. 2 MR. RICH: Your Honor, this is a complete 180 from 3 the exact argument they made a year ago. They realized 4 their case is weak. They're seeing that, oh, wait, he 5 traded the securities that my Defendants have on their 6 statements? We need to get more discovery to refute it. So 7 all of a sudden they have a new argument. It should be 8 denied. 9 THE COURT: Okay. Mr. Kirby? 10 MR. KIRBY: Thank you, Your Honor. Richard Kirby 11 on behalf of one of the only open case I have where 12 discovery is 100 percent open. We have an open discovery -- 13 THE COURT: I'm sorry. It's open in your case? 14 MR. KIRBY: 100 percent open fact discovery case. 15 THE COURT: Which case is that? 16 MR. KIRBY: It's (indiscernible) BM Investments. 17 THE COURT: Okay. And how many cases do you have? 18 MR. KIRBY: All my other cases are in -- have been 19 decided on summary judgment -- 20 THE COURT: Okay, so you've only got one case 21 left, right? 22 MR. KIRBY: Right, right. Okay. And there's two 23 issues I'd like to raise. The first issue I think is a 24 threshold issue, is whether -- if there's going to be such a 25 proceeding.</p>
<p style="text-align: right;">Page 55</p> <p>1 MR. RICH: That's right. 2 THE COURT: All right. 3 MS. BELL: But he participated -- the case 4 participated in Madoff's deposition, Your Honor, and we 5 allowed a number of cases on day two of the deposition to 6 come in to the deposition although discovery was closed -- 7 the discovery cutoff had passed in their case. 8 So, again, I think that there is some one- 9 sidedness here that, you know, we would appreciate if the 10 Court takes notice of. Because the Trustee has allowed 11 discovery in cases where it's been closed and we're not, 12 again, asking for something new; we're asking for a 13 continuation. 14 THE COURT: But these Defendants don't want more 15 discovery. I keep coming back to the same issue. They're 16 ready to try their cases. And if they haven't gotten 17 records that Ms. Chaitman thinks she needs, well, that's 18 going to be their problem, not yours. 19 MS. BELL: I think that's right, Your Honor, and 20 so it's the Trustee's position that if we were to use some 21 of those witnesses at trial or those documents that we would 22 like to, we think, go to the issues that Mr. Madoff is 23 raising, then there can be no objection on the Defendants' 24 part that the Trustee did not give them access to these 25 witnesses that we don't have control over, but certainly</p>	<p style="text-align: right;">Page 57</p> <p>1 THE COURT: I agree with you. That's really 2 what's driving all this. 3 MR. KIRBY: Because if we wait -- our cases, which 4 were the South Ferry and Lowry cases, were set as selected 5 and tried as a test case. They're pending before Judge 6 Engelmayer at this point. He has a hearing scheduled for 7 August 28th. We can assume that he will decide certainly 8 before the end of the year. And the case will either be 9 decided one way or another, and either side's going to take 10 -- 11 THE COURT: But then it's going to go up to the 12 Second Circuit, so -- 13 MR. KIRBY: Right. But by one or other side. 14 THE COURT: Years away from a resolution of this 15 issue. 16 MR. KIRBY: Certainly probably through the end of 17 '19 is what I would expect. But the issue -- and so, we 18 think those threshold issues make all of this question of 19 how far back you go irrelevant, especially the issue of 20 whether the statute of repose limits the Trustee's reach 21 back altogether. 22 And that issue on -- with all due respect, we 23 disagree, but there are 16 bankruptcy judges who said it's a 24 statute of repose. So, it's very possible that Judge 25 Engelmayer's decision could split on the issue. Okay? So,</p>

<p style="text-align: right;">Page 70</p> <p>1 evaluate.</p> <p>2 THE COURT: All right. Look, I'm not going to</p> <p>3 grant this motion on the state of this record. The order on</p> <p>4 which this is all predicated -- there are actually two of</p> <p>5 them, but the first Madoff deposition order said -- in</p> <p>6 Paragraph 11 -- it says, "As to the participating customers</p> <p>7 whose fact discovery is set to close on or after the date,</p> <p>8 the Court extends fact discovery for the limited and sole</p> <p>9 purpose of taking Madoff's deposition."</p> <p>10 It then says, "Other than for that purpose, the</p> <p>11 deadlines in the applicable case management orders remain</p> <p>12 unchanged, notwithstanding the dates set forth in the case</p> <p>13 management orders. Counsel for the Trustee, the</p> <p>14 participating customers, the Picower parties, and SIPC have</p> <p>15 the right to move the Court for further discovery based upon</p> <p>16 Madoff's testimony."</p> <p>17 If you're going to make that motion, you have to</p> <p>18 show specifically what it is Madoff said that's new, that</p> <p>19 you couldn't have anticipated with due diligence of taking</p> <p>20 that discovery. I'm being told -- and part of the problem</p> <p>21 of this process is people tell me a lot of stuff, and it's</p> <p>22 not contained in a pleading. But I'm told that some of</p> <p>23 these issues were always issues in the case and at some</p> <p>24 point, somebody got the idea they wanted to take Madoff's</p> <p>25 deposition. I don't even know how that -- I don't recall</p>	<p style="text-align: right;">Page 72</p> <p>1 lot of these expert reports have been out there forever and</p> <p>2 there were expert discovery deadlines set. But, again, I go</p> <p>3 back to the orders which authorize Madoff's deposition,</p> <p>4 which is the starting point you have to show in order to</p> <p>5 reopen discovery in any case that he said something that</p> <p>6 would be cause to reopen the case.</p> <p>7 I am also having second thoughts about a</p> <p>8 consolidated proceeding, although I agree with you, it is</p> <p>9 certainly the most efficient way to deal with the issue.</p> <p>10 There may be practical problems with it. Depositions that</p> <p>11 have been taken, for example, I use the Madoff deposition,</p> <p>12 and you're going to tell me you invited people and I don't</p> <p>13 know what effect that has. But the Madoff deposition,</p> <p>14 whether it can be used in all cases, particularly those</p> <p>15 cases where discovery was run and people didn't have the</p> <p>16 right under the order to participate in it. There may be</p> <p>17 other discovery which was taken in an individual case. I</p> <p>18 don't know what that might be but -- I'm told Ms. Galura was</p> <p>19 deposed. Or Mr. Greenblatt was deposed a couple of times.</p> <p>20 I don't know what he or she said, but I don't know if you</p> <p>21 can use that in the other cases.</p> <p>22 So there may be a practical problem, which is</p> <p>23 really, as I said, what's driving this notion of reopening</p> <p>24 discovery and having a consolidated discovery proceeding.</p> <p>25 Because if we can't have a consolidated proceeding, we don't</p>
<p style="text-align: right;">Page 71</p> <p>1 how that originated. With Ms. Chaitman, all right. And we</p> <p>2 limited it to cases where discovery was still open.</p> <p>3 I'm not inclined to reopen discovery for another</p> <p>4 year, certainly in cases where discovery is closed. To the</p> <p>5 extent that discovery is still open or you have a duty to</p> <p>6 supplement or something like that, your proposed order sort</p> <p>7 of wipes all that out and starts everything anew. And</p> <p>8 that's not right.</p> <p>9 Expert discovery we can deal with to the extent</p> <p>10 it's still open. People can go in on one day and take</p> <p>11 Madoff -- take Dubinsky's deposition. I don't know if you</p> <p>12 want to take the deposition Mr. Rich put in. I forget his</p> <p>13 name. Friedland?</p> <p>14 MS. BELL: Mr. Greenblatt.</p> <p>15 THE COURT: No, no, no. What was your expert's</p> <p>16 name? Friedland?</p> <p>17 MS. BELL: Feingold.</p> <p>18 THE COURT: All right, Feingold.</p> <p>19 MR. RICH: Mr. Feingold. But their deadline to</p> <p>20 depose in my cases expired.</p> <p>21 THE COURT: Has your deadline to depose Mr.</p> <p>22 Dubinsky expired?</p> <p>23 MR. RICH: Yes.</p> <p>24 THE COURT: Okay. Well, deadlines have expired,</p> <p>25 they've expired absent the modification of the order. But a</p>	<p style="text-align: right;">Page 73</p> <p>1 need this consolidated discovery. We'll just do it on a</p> <p>2 case by case basis or a group of cases to the extent it</p> <p>3 makes sense. So that if Ms. Neville has 13 cases and your</p> <p>4 direct case -- to a large extent her defenses are the same</p> <p>5 in every one of those cases, yeah, we can try those together</p> <p>6 or consolidate those issues.</p> <p>7 MS. BELL: And the Trustee is prepared to move</p> <p>8 forward, Your Honor, on a case by case basis. I just want</p> <p>9 to bring the Court back -- I know you said two orders.</p> <p>10 There is a third order, Ms. Chaitman's April -- August 10,</p> <p>11 2017 order that left all the dates in abeyance with the</p> <p>12 exception of the three motions to withdraw the reference</p> <p>13 cases. And it expressly outlined the expert report. And so</p> <p>14 it's the Trustee's view that whatever decision the Court</p> <p>15 renders today, if there can be a carve out for Ms.</p> <p>16 Chaitman's cases, because they're to be handled separately</p> <p>17 just under this order and it's separate from --</p> <p>18 THE COURT: She retained the right under that</p> <p>19 order -- there was the issue of the subpoenas on the</p> <p>20 traders.</p> <p>21 MS. BELL: Yes, Your Honor.</p> <p>22 THE COURT: Right. So those were timely served.</p> <p>23 And that's just a discovery issue.</p> <p>24 MS. BELL: But the Trustee has not been serving</p> <p>25 expert reports under this order because our reading of the</p>

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<p>1 produced a number of records in connection with the</p> <p>2 microfilm dispute that we had last year, and Ms. Chaitman</p> <p>3 asked for more time to review those records so she could go</p> <p>4 depose Mr. Madoff. She took 25 minutes of his deposition</p> <p>5 and then she was done, and then did five minutes of cross.</p> <p>6 And so I think, you know, to the extent that this</p> <p>7 production issue further delays the case, I would request</p> <p>8 that the Court limits that.</p> <p>9 THE COURT: Well, the simple answer to that is</p> <p>10 just to schedule Dubinsky's deposition, and in the interim</p> <p>11 you can either make your Motion to Compel or you can go back</p> <p>12 to Judge Moss, which is what I think you should do since he</p> <p>13 put this procedure in place --</p> <p>14 MS. CHAITMAN: I will go back to Judge Moss --</p> <p>15 THE COURT: -- and he will --</p> <p>16 MS. CHAITMAN: If Judge Baker had not agreed to</p> <p>17 give me the documents, I would have gone back to Judge Moss</p> <p>18 already.</p> <p>19 MS. BELL: But we have not served Mr. Dubinsky's</p> <p>20 deposition yet because fact discovery --</p> <p>21 THE COURT: Well, why don't you serve it?</p> <p>22 MS. BELL: We typically have a 60-day period</p> <p>23 between -- because we have to have whatever documents are at</p> <p>24 play before the expert reports are due. And so there's a</p> <p>25 60-day period between the close of fact discovery and expert</p>	<p>1 discovery is after the close of fact discovery typically.</p> <p>2 THE COURT: And you oppose her taking those</p> <p>3 depositions if, for no other reason, you want a consolidated</p> <p>4 proceeding in which everybody attends those depositions?</p> <p>5 MS. BELL: Well, we thought it would make sense,</p> <p>6 Your Honor. For example, she had David Kugel on the list of</p> <p>7 27 traders. He has a plea allocution and he testified at</p> <p>8 the criminal trial. There are a number of issues that will</p> <p>9 go across cases. And so we think it's not efficient to</p> <p>10 proceed with those --</p> <p>11 THE COURT: Why don't you make your motion to</p> <p>12 modify the pretrial orders to reopen discovery?</p> <p>13 MS. BELL: Yes, Your Honor.</p> <p>14 THE COURT: And do that expeditiously. Now, with</p> <p>15 respect -- there's got to be a time limit, though, Ms.</p> <p>16 Chaitman, with you doing something about this issue.</p> <p>17 MS. CHAITMAN: I will make the motion -- Judge, if</p> <p>18 Baker had not indicated to me that they would produce all</p> <p>19 the trading records without my going back to Judge Moss, I</p> <p>20 would have done it already. But I will go back to Judge</p> <p>21 Moss, but I'd like to be able to proceed with the subpoenaed</p> <p>22 depositions. The traders have both documents and testimony.</p> <p>23 THE COURT: I think I want to decide the Trustee's</p> <p>24 motion first, because everybody's going to want to come to</p> <p>25 Kugel's deposition, for example, if I reopen discovery. And</p>
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<p>1 discovery in every case management order.</p> <p>2 THE COURT: So what do you do -- you're saying</p> <p>3 she's stretching it out, but you're saying you can't serve</p> <p>4 your expert report and we can't have expert discovery until</p> <p>5 this document dispute is resolved, right?</p> <p>6 MS. BELL: Until we --</p> <p>7 THE COURT: So, what do you propose?</p> <p>8 MS. BELL: Until we determine that fact discovery</p> <p>9 is closed. And so I think, Your Honor, that we need to</p> <p>10 decide what constitutes the end of fact discovery.</p> <p>11 THE COURT: Okay, fair enough.</p> <p>12 MS. BELL: And I don't know what that is today.</p> <p>13 And perhaps a further discussion? She also has outstanding</p> <p>14 the trader subpoenas, and it's our view that that's part of</p> <p>15 fact discovery and the experts should be given an</p> <p>16 opportunity --</p> <p>17 THE COURT: Don't the case management orders in</p> <p>18 each case determine when fact discovery is over?</p> <p>19 MS. BELL: But those dates have expired, I think,</p> <p>20 as we just agreed, and Ms. Chaitman has outstanding trader</p> <p>21 subpoenas, for example. She wants to take depositions.</p> <p>22 THE COURT: Okay.</p> <p>23 MS. BELL: The experts would need to get the</p> <p>24 benefit of that -- those depositions before we have to</p> <p>25 render an expert report. And so fact discovery -- expert</p>	<p>1 everybody may want to question Kugel. I don't know who</p> <p>2 else, you know, is involved. Maybe Bongiorno. I don't know</p> <p>3 --</p> <p>4 MS. CHAITMAN: I was not able to serve a subpoena</p> <p>5 on Kugel.</p> <p>6 THE COURT: Pardon?</p> <p>7 MS. CHAITMAN: I have not served a subpoena on</p> <p>8 Kugel.</p> <p>9 THE COURT: So, how many depositions do you -- how</p> <p>10 many subpoenas have you served?</p> <p>11 MS. CHAITMAN: You know, I don't have that number.</p> <p>12 But I think it's -- I mean, I tried to serve 27. Kugel's in</p> <p>13 prison, isn't he? I mean, I didn't serve him, so -- but I'd</p> <p>14 like to be able to go forward with that discovery. I don't</p> <p>15 --</p> <p>16 THE COURT: But how many -- that's what I'm asking</p> <p>17 you. How many are there?</p> <p>18 MS. CHAITMAN: I think it's 12 that we actually</p> <p>19 served. I'd like to go forward with those 12 depositions</p> <p>20 and get the documents.</p> <p>21 THE COURT: There's only two possibilities:</p> <p>22 Either I have to hear her motion first or there's going to</p> <p>23 be an interim procedure where anybody can opt in, regardless</p> <p>24 of whether discovery is closed, if they want to attend those</p> <p>25 depositions. But they'll be deemed to have attended them,</p>

<p style="text-align: right;">Page 82</p> <p>1 whether or not they opt in.</p> <p>2 MS. CHAITMAN: Why don't we have the Trustee make</p> <p>3 the motion and then --</p> <p>4 THE COURT: All right.</p> <p>5 MS. BELL: So, Your Honor, just a couple of</p> <p>6 scheduling things. I'm on vacation for two weeks in August.</p> <p>7 And so if we can defer that a little to --</p> <p>8 THE COURT: Everybody's on vacation in August,</p> <p>9 except me but --</p> <p>10 MS. BELL: But just to address the point of</p> <p>11 Kugel's deposition, the Trustee had --</p> <p>12 THE COURT: You're the only lawyer working on this</p> <p>13 case, right?</p> <p>14 MS. BELL: No, Your Honor, but many --</p> <p>15 THE COURT: I've seen your -- I've seen your</p> <p>16 firm's fee applications.</p> <p>17 MS. BELL: A number of other --</p> <p>18 THE COURT: You must have a high billing rate. Go</p> <p>19 ahead.</p> <p>20 MS. BELL: A number of other folks who are on this</p> <p>21 proceeding are also on vacation, Your Honor. But just with</p> <p>22 respect to Kugel's deposition, I think the Trustee assumed</p> <p>23 that Ms. Chaitman had served, and this is the first time</p> <p>24 we're hearing that that deposition --</p> <p>25 THE COURT: Well, he's in jail.</p>	<p style="text-align: right;">Page 84</p> <p>1 know what's happened, whether those statements were made or</p> <p>2 if they were made, whether there was a follow-up to get the</p> <p>3 records. I just don't know. I don't know if there's a</p> <p>4 question of proportionality, if there's a question of who's</p> <p>5 going to bear the cost of all this. I don't even know what</p> <p>6 the cost is. For all I know, you can tell someone to come</p> <p>7 into the data room and say, "Here, go have a look at 30</p> <p>8 million documents. Just be out in an hour." I just don't</p> <p>9 know.</p> <p>10 And if you're going to argue that it's</p> <p>11 disproportionate, you're going to have to explain to me</p> <p>12 facts which tell me what the cost is and things like that.</p> <p>13 Because I still remember I told you to go and look at 20</p> <p>14 reels of microfiche. You looked at four.</p> <p>15 MS. CHAITMAN: You're conflating two issues, Your</p> <p>16 Honor, if I may --</p> <p>17 THE COURT: Okay, but --</p> <p>18 MS. CHAITMAN: The microfilm, we dropped the</p> <p>19 microfilm, as I explained previously.</p> <p>20 THE COURT: All right, so the microfilm is no</p> <p>21 longer at issue?</p> <p>22 MS. CHAITMAN: I explained that it wasn't</p> <p>23 productive for us to go through the microfilm. There were</p> <p>24 like, 5,700 microfilms --</p> <p>25 THE COURT: So, these 30 million documents, can</p>
<p style="text-align: right;">Page 83</p> <p>1 MS. BELL: Well, but, Your Honor, I think, though,</p> <p>2 the point I'm trying to make is that the Trustee should be</p> <p>3 accorded the opportunity, at least in Ms. Chaitman's cases,</p> <p>4 to take Mr. Kugel's deposition because --</p> <p>5 THE COURT: We can argue with that if we get to a</p> <p>6 case by case determination, if I deny your motion or I limit</p> <p>7 the issues. I mean, I've been hearing about Kugel's</p> <p>8 allocation now for four years, so...</p> <p>9 MS. BELL: Absolutely right, Your Honor. We</p> <p>10 thought this would be an appropriate juncture to do that.</p> <p>11 THE COURT: Okay.</p> <p>12 MS. BELL: Mr. Shifrin is prepared to address, to</p> <p>13 the extent the Court would like to hear, the specific</p> <p>14 statements by Ms. Chaitman on trading records and what that</p> <p>15 means and the status of that, if the Court is so inclined.</p> <p>16 THE COURT: I don't want to hear another -- I</p> <p>17 don't want to have another discovery conference on this</p> <p>18 issue. As I said, I've had multiple discovery conferences</p> <p>19 for two years, culminating last year when Ms. Chaitman said</p> <p>20 she wanted to make a Motion to Compel. I suggested that the</p> <p>21 better procedure might be to go back to Judge Moss, although</p> <p>22 I never said you couldn't make a motion to compel, and I</p> <p>23 would never say that.</p> <p>24 And I'm being told that there were communications,</p> <p>25 and the Trustee said he would turn over records, and I don't</p>	<p style="text-align: right;">Page 85</p> <p>1 they be searched?</p> <p>2 MS. CHAITMAN: Yes.</p> <p>3 THE COURT: With search terms?</p> <p>4 MS. BELL: And I'll let Mr. Shifrin respond to</p> <p>5 that, Your Honor.</p> <p>6 MR. SHIFRIN: Good morning, Your Honor. Max</p> <p>7 Shifrin on behalf of the Trustee. Yes, the documents in the</p> <p>8 BLMIS database can be searched. And we have been searching</p> <p>9 them for years. We have run dozens of search terms for Ms.</p> <p>10 Chaitman, both what we've offered and ones that she's</p> <p>11 offered, and we've produced those documents to her. So she</p> <p>12 has access to the BLMIS database. She simply has to give us</p> <p>13 purposeful, concrete, specific, reasonable search terms that</p> <p>14 aren't bank names like Fidelity that return 3 million hits.</p> <p>15 That's not a reasonable search term. That's --</p> <p>16 THE COURT: Why don't you give them the CUSIP</p> <p>17 numbers? See if they pop up.</p> <p>18 MS. CHAITMAN: If I were that smart...</p> <p>19 THE COURT: I'm sure you'll figure it out, Ms.</p> <p>20 Chaitman.</p> <p>21 MR. SHIFRIN: Your Honor, just to clarify a couple</p> <p>22 of things here. The BLMIS database contains, literally, all</p> <p>23 documents, hardcopy and electronic that were recovered from</p> <p>24 all operative floors of the Lipstick Building.</p> <p>25 THE COURT: Okay.</p>